

**Statement of Kirk Rodgers  
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Before the U.S House of Representatives  
Subcommittee on Water and Power  
Assessing the Implementation of the Central Valley Project Improvement Act**

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Chairman Radanovich and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the Central Valley Project Improvement Act (CVPIA). Today my testimony will provide an overview of CVPIA and summarize the actions taken to implement CVPIA. I will also summarize what has been accomplished to improve fish and wildlife resource conditions in the Central Valley of California. Here with me today is Steve Thompson, Manager for California and Nevada Operations for the U.S. Fish and Wildlife Service (Service) and my co-implementer for CVPIA activities.

**Brief Background and Accomplishments**

It has been nearly 14 years since Congress passed, and the President signed, the CVPIA in 1992. This landmark legislation mandated changes in how we manage and operate the Central Valley Project (CVP) by directing the Secretary of the Interior to undertake fish and wildlife restoration and enhancement programs while keeping balance with the project's other purposes. The Secretary, in turn, assigned the primary responsibility for carrying out the many provisions of CVPIA to the U.S. Bureau of Reclamation (Reclamation) and the U.S. Fish and Wildlife Service (Service).

Since 1992, we have given CVPIA implementation high priority and the results to the environment in the Central Valley have been beneficial and noteworthy. Some of the Act's authorized activities have been completed and others are well underway.

More than \$830 million of State and Federal money has been invested to carry out the many provisions of the Act. We expect to continue to make progress to fully achieve the goals and objectives of CVPIA.

In the early years of CVPIA implementation, major fishery restoration projects were constructed. These projects included the Shasta Temperature Control Device, Glen-Colusa Irrigation District Fish Screen Project, rehabilitation of Coleman National Fish Hatchery, and the fish passage facilities on Butte Creek. These projects will have had a lasting effect towards restoring anadromous fish populations in Central Valley rivers.

Most of the \$830 million funding thus far has come from the Restoration Fund (\$485 million), which was established by CVPIA legislation. These funds are derived from fees

paid by the beneficiaries of the CVP's water and power supplies. The rest comes from Reclamation's Water and Related Resources appropriations (\$275 million), contributions provided by the State of California (\$69 million), and donated funds from the Nature Conservancy (\$1 million).

## **Implementation of CVPIA**

Through passage of the CVPIA, Congress recognized the importance of the CVP in California's water resource picture, but also required significant changes in the policies and administration of the project.

The CVPIA redefined the purposes of the CVP to include the protection, restoration, and enhancement of fish, wildlife, and associated habitats. To achieve the purposes of CVPIA, a number of provisions were included into the statute. These provisions dealt with water contracts, improved water management, restoration of anadromous fish populations, water supplies for State and Federal refuges, and mitigation for other fish and wildlife impacted by the CVP. While many view the primary intent of CVPIA as responding to those environmental issues associated with the CVP, it is important to keep all of the stated purposes of the Act in mind as we move forward.

Those purposes as stated in Section 3402 of the Act are as follows:

- (a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California;
- (b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;
- (c) to improve the operational flexibility of the Central Valley Project;
- (d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;
- (e) to contribute to the State of California's interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; and
- (f) to achieve a reasonable balance among competing demands for use of Central Valley Project water, including the requirements of fish and wildlife, agricultural, municipal and industrial and power contractors.

The early years of CVPIA were devoted to developing procedures and criteria to prioritize environmental improvement projects and actions. Some of the prioritization criteria included assessment of the action achieving CVPIA program goals, its readiness for implementation, non-federal funding availability, prior agreements and regulatory commitments. Also, emphasis on forming partnerships and coordinating with other efforts planned was considered in funding decisions.

## **Accomplishments**

At this point I would like to summarize the significant CVPIA implementation actions. As I previously stated, the Act not only included environmental restoration goals for CVP, but also included a number of changes in the administration and policies of the project. The Act mandated several changes within the CVP. For example, water conservation programs have been set up to develop criteria in the accomplishment of annual water management plans by each CVP contractor. Water transfers allow CVP water provided in settlement contracts to be moved even though their settlement contract does not allow it. Water quality provisions make the contractors responsible for surface and sub-surface agricultural drainage discharges. Water metering measures water at each municipal and industrial service connection and agricultural farm. The law governing water payments has changed so that contractors pay only for what they take. Trinity River Restoration investments have been made, contributing to that extraordinary effort to improve the fish populations of a major river and work toward meeting the Secretary's trust responsibilities in the basin. In addition, programs promoting water banking are additional successes of CVPIA.

## **CVP Long Term Water Service Contracts**

CVPIA also mandated that the Secretary administer all water service contracts to be compliant with the requirements and goals of CVPIA and encouraged early renewal of contracts. I am happy to report that 208 water contracts that have been executed and we anticipate that the 42 remaining contracts will be executed in the near future. These contracts represent 7.8 million acre-feet of CVP water. These contracts have all been negotiated in compliance with Federal law including CVPIA.

All CVP-wide, unit, division, and district specific negotiations have been held in public and have included an opportunity for public comment at each session. To date, over 300 negotiation sessions have been open to the public creating a transparent process for interested parties. We also maintain an extensive website to inform the public of the status and content of contract negotiations.

## **Fish and Wildlife Restoration**

CVPIA also identified and required specific fish and wildlife protection, restoration, and mitigation actions. These actions have been principally managed through 38 separate programs. Through these programs, significant progress has been made toward achieving the goals and objectives established by the CVPIA in the protection, restoration and enhancement of fish and wildlife associated with the Central Valley Project. In addition, significant investments have been made on streams, rivers and wetlands with no connection to the Central Valley Project. However, given the complexity of these ecosystems, our biologists cannot determine the specific population level effects of our investments.

Water supplies to refuges have resulted in an average annual increase of 12,000 acres of wetland habitats, and these refuges can provide wetted habitats for longer periods of time. Waterfowl use has increased between 300 percent in some areas and 800 percent in others. Additional refuge water supplies have helped alleviate waterfowl overcrowding, disease-related mortality, and decline in cholera outbreaks and botulism. Species other than waterfowl have benefited from the water provided to the refuge areas; e.g., shorebirds, wading birds, western pond turtles, and giant garter snake.

One of the most significant events through 2006 has been the increase of anadromous fish populations in five different Central Valley tributary streams. Most notable is Butte Creek, where spring-run Chinook salmon natural production has increased by more than 10 times its average 1967-1991 natural production. In Clear and Battle creeks, fall-run Chinook salmon natural production has increased over 200 percent. Chinook salmon in the American and Mokelumne rivers also show promising trends.

Actions taken under CVPIA are believed to have greatly influenced the increasing population trends for anadromous fish in widely dispersed areas of the Central Valley. Actions have included removal of smaller old dams and barriers, reopening many miles of spawning habitat, carefully planned deposition of gravel, recreating lost spawning habitat; improvement of stream-side habitat; better management of available instream water supplies; addition of fish screens at many diversions, protecting both seaward-migrating smolt and adults returning to spawn; support for larger habitat restoration efforts in the watershed, and surveys and research work to help fishery biologists to better understand the workings of the Central Valley fishery and to identify ways to re-invigorate its fish populations. We anticipate that continual investment in and progress on the Trinity River Restoration Program will have similar benefits, benefits that will reach all the way up to the Klamath River.

Mr. Chairman, I have attached with my written testimony our CVPIA 10-year report from May of 2004, which describes the projects and accomplishments that have been achieved as a result of CVPIA implementation.

#### **Section 3406 (b)(2) 800,000 AF**

A significant feature of CVPIA is Section 3406(b)(2). In essence, the Secretary is directed to dedicate 800,000 acre-feet annually of CVP yield to be used primarily for the purposes of fish, wildlife, and habitat restoration. This (b)(2) water is also to be used to assist the State of California in its efforts to protect the waters of the San Francisco Bay/Sacramento- San Joaquin Delta Estuary; and to help to meet such obligations as may be legally imposed upon the CVP under State or Federal law, including but not limited to obligations under the Federal Endangered Species Act.

The (b)(2) water provision requires a coordinated approach among the federal and state fishery and water project agencies to manage CVP water for the purpose of maximizing environmental and other project purposes. The dedication of (b)(2) water each year has

been the focus of discussions and workshops with stakeholders which began as early as 1993.

Reclamation and the Service are working to ensure that we properly account for the 800,000 acre-feet of water that is used for Section 3406 (b)(2) purposes in any given water year.

Some CVP water contractors believe that in some years we dedicate more than 800,000 acre feet for (b)(2) purposes and there is less of a need for (b)(2) water in water years that are wetter than normal. It is common, under the current procedures, for water supply allocations to CVP contractors south of the Sacramento-San Joaquin River Delta (Delta) to be less than 75% even under normal hydrological periods. This phenomenon occurs because in normal and dry periods more Section 3406 (b)(2) water is used upstream for fishery purposes, while in wetter years, the need for Section 3406 (b)(2) water upstream is not always needed or is greatly diminished. Therefore, in wetter periods, more Section 3406 (b)(2) is available for actions that are taken in the Delta for fishery purposes, such as the curtailment of pumping of water for CVP water service contractors.

Both Reclamation and the Service are working with water contractors to meet the mandate of the CVPIA as it relates to (b)(2) water while making as much water available to CVP contractors as early as possible in the water year. The b(2) provision which dedicates 800 TAF of CVP yield requires a coordinated approach to the management of CVP water. We are working to ensure that we properly account for the 800 TAF of water that is used for b(2) purposes in any given water year. We recognize that some CVP contractors believe that the need for b(2) water is less in wetter water years. It is common for water supply allocations to south of Delta contractors to be lower in wetter hydrological periods. We are working with our contractors to meet the mandate of CVPIA as it relates to b(2) water while making as much water available to CVP contractors as early as possible in the water year.

### **Current Efforts**

While we believe that significant progress has been made to the fish and wildlife resources in the Central Valley, actual measurement of progress towards attaining CVPIA objectives has been a challenging task. During the last 3 months Reclamation and the Service have been working with the Restoration Fund Roundtable on a program evaluation process to review past accomplishments and assess future program needs; establish plans to meet the CVPIA objectives and achieve endpoints; establish performance measures related to our investments; and increase the transparency of the decision-making process.

One of the objectives of reviewing the CVPIA program is to assess if specific program activities are complete. There are a number of projects that have been successfully completed and have contributed to the program results.

The process to identify and measure completed CVPIA actions is being conducted by two parallel reviews, a Performance Assessment Rating Tool (PART) review and a Program Activity Review (PAR). The Administration is conducting a PART review of the CVPIA as a continuation of its effort to assess the performance of all federal programs. The PART is a collaborative effort instituted by the Office of Management and Budget, done in conjunction with the Bureau of Reclamation and Fish and Wildlife Service. It will be looking, among other things, at the design, implementation, and results of the CVPIA. The PART will consider these issues, and others, and use the findings from the process to guide the development of the President's FY 2008 Budget request, with the ultimate goal of improving program effectiveness.

The second review of CVPIA is the Program Activity Review which is a more detailed analysis of the specific program activities specified by sections in CVPIA. The purpose of this review is to assess the status of each program activity and refine performance goals and assess program completion.

I believe that it is through these processes that we will have the tools and data to better monitor and assess CVPIA program accomplishments.

This concludes my testimony. Mr. Chairman, I would like to reiterate my appreciation to the subcommittee for your interest in CVPIA implementation.

I would be happy to answer any questions at this time.